

1 HONORABLE RONALD B. LEIGHTON  
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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT TACOMA

10 MICHAEL J COLLINS,

11 Plaintiff,

12 v.

13 STATE OF WASHINGTON,

Defendant.

CASE NO. C13-5444 RBL

ORDER ON MOTIONS TO  
PROCEED

14 THIS MATTER is before the Court on Plaintiff Collins' "Motion[s]/Request to Proceed  
15 with Instant Case after 9<sup>th</sup> Circuit 10/28/13 Order" [Dkt. #s 12 & 13]. Judge Settle dismissed an  
16 apparently similar case on summary judgment in 2011. [See *Collins v. Washington*, Cause No.  
17 13-5594BHS, and Dkt. #36 in that case]. The Ninth Circuit recently affirmed that Order. [See  
18 Dkt. #s 39-42 in that case, also attached to Dkt. #12 in this case].

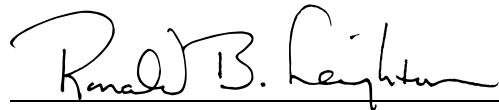
19 Plaintiff's complaint in this case appears to arise from the same series of events, although  
20 he has added individual defendants who were not named in the earlier case. It is not clear what  
21 Plaintiff seeks in the current Motions. The Defendants' Response suggests that perhaps he seeks  
22 a ruling that the Federal Rules do (or do not) apply to the case. [See Dkt. #14] Or it might be  
23 that Plaintiff is proactively trying to undermine the Defendants collateral estoppel defense. If so,  
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1 he has not persuaded the Court that that defense (plead in the Defendants' answer) is without  
2 merit.

3 In any event, the Motions are DENIED without prejudice. The parties should address in  
4 the near term whether and to what extent this case overlaps or is otherwise impacted by the prior  
5 case, and by the Ninth Circuit's opinion affirming the District Court's dismissal of Plaintiff's  
6 prior claim.

7 IT IS SO ORDERED.

8 Dated this 10<sup>th</sup> day of December, 2013.

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RONALD B. LEIGHTON

11 UNITED STATES DISTRICT JUDGE

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